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In re Application of SIM et al :
U.S. Application No.: 09/763,338 :
Int. Application No.: PCT/AU00/00937 :
Int. Filing Date: 07 August 2000 :
Priority Date: 06 August 1999 :
Attorney Docket No.: 4670/1 :
For: NETWORK RESOURCE MONITORING AND :
MEASUREMENT SYSTEM AND METHOD :

DECISION

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 07 August 2000, applicant filed international application PCT/AU00/00937, which claimed priority of an earlier Australia application filed 06 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 15 February 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 February 2002.

On 16 February 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 May 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed. Form PCT/DO/EO/905 set a response deadline of thirty-two (32) months from the priority date, i.e. 06 April 2002.

On 13 December 2001, the DO/EO/US mailed a Notification of Abandonment, which stated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.


DISCUSSION

The Notification of Abandonment was mailed in error.

CONCLUSION

For the reasons above, the Notification of Abandonment mailed 13 December 2001 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) to await applicant's response to the Notification of Missing Requirements mailed 08 May 2001.


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